

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 123 OF 2007

Shri Suresh Joshi ..Applicant

Vs.

State of Maharashtra ..Respondent

Mr. A.P. Mundargi with Mr. Amol Patankar for
applicant.

Mr. S.R. Borulkar, P.P. with Ms. R.M. Gadhvi, APP
for State.

CORAM: B.H. MARLAPALLE, J.

Date : January 23, 2007.

P.C.:

1. Heard Mr. Mundargi the learned Senior Counsel with Mr. Patankar for applicant and Mr. Borulkar the learned P.P. with Ms. Gadhvi, APP for State.

2. The applicant had applied for anticipatory bail in Criminal Bail Application No. 942 of 2006 consequent to the registration of C.R. No.I-109 of 2006 registered with Vishnu Nagar Police Station for the offences punishable under Sections 307, 120(b), 384, 506(2) of the IPC and under Section 2 (25)(1)(A) read with Section 27 of the Arms Act. The learned Additional Sessions Judge at Kalyan was pleased to

reject the anticipatory bail vide his order dated 9/1/2007.

3. The learned Additional Sessions Judge observed that the investigation papers and more particularly the statement of the complainant's brother and Navnath Sutar, prima facie, indicated the involvement of the applicant in planning the plan and, therefore, his custodial interrogation was necessary along with other members of the group which reportedly hatched conspiracy in June 2006..

4. From the papers placed before me by the learned P.P., it is noted that permission was sought to carry further investigation under Section 173(8) of the Cr.P.C. after the charge-sheet was filed and the said permission has been granted by the learned Magistrate on 20/12/2006. In addition to the statement of Navnath Sutar which has been referred to by the learned Additional Sessions Judge, the statement of Santosh Chaudhary and memorandum statement of Budharam recorded under Section 27 of the Evidence Act have been perused by me. The Police Sub

Inspector, Crime Branch, Thane (City), Kalyan Unit has also filed affidavit in reply and explained why the applicant's custodial interrogation is necessary. Though there are no articles recovered from the present applicant, the investigation, prima facie, shows that the mobiles used by him were not in his name and Santosh Chaudhary whose mobile he was using was specifically told to lodge a complaint with the police to the effect that his mobile was lost. This Chaudhary is one of the employees of one Mr. Mandlik. The other material in the investigation papers claims that the applicant is one of the gang members of Santosh Anna Shetty and, therefore, along with other arrested gang members the applicant's custodial interrogation is warranted.

5. At this stage, there is no reason to believe that prima facie there is nothing against the applicant warranting his custodial interrogation and, therefore, this application fails and the same is hereby rejected.

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(B.H. Marlapalle, J.)